

REMARKS

Restriction Requirement

The present Application is subject to a Restriction Requirement under 35 U.S.C. § 121. A provisional election was made by phone on August 5, 2002 to prosecute Group II claims (10-14) to a process for polymerizing olefins. This election is affirmed. Although these claims are cancelled in the present case, the newly submitted claims 23-53 are drawn to the same "process for polymerizing olefins" class.

Objections

Claim 10 was objected to due to reference to a "metallocene catalyst compound" being technically incorrect. Applicant acknowledges that a metallocene compound alone is not catalytically active, and contends that this is well known in the art. Nonetheless, Claim 10 has been cancelled and replaced by new Claim 23, and it is believed that use of the term "catalyst compound" is well established to refer to the component of a catalytically active composition wherein addition of olefin to the growing polymer chain takes place. For example, metallocenes are referred to as "catalysts" in 1 METALLOCENE-BASED POLYOLEFINS 1-27 (J. Scheirs & W. Kaminsky eds., John Wiley & Sons 2000). Thus, this objection should be withdrawn.

Further, Claims 10 through 14 have been replaced by "process of polymerization" claims 23-39. The new claims are based on the original claims submitted, and the specification, as outlined below in the table:

Table

| New Claims | Original Claim and/or specification reference |
|-------------------|---|
| 23 | 6, 10; specification page 3, lines 15-20; p. 22, lines 4-18; and Examples on page 36. |
| 24 | Specification at p. 20, lines 1-5. |
| 25 | Specification at p. 20, lines 1-5. |
| 26 | Specification at p. 20, lines 1-5. |
| 27 | 10; and specification at p. 22, lines 4-30; and Examples on page 36. |
| 28 | Specification at p. 21, line 1. |
| 29 | 10; and specification at p. 22, lines 4-30; and Examples on page 36. |
| 30 | Specification at p. 21, line 1. |
| 31 | 9; specification p. 19, lines 28-30. |
| 32 | Specification pp. 18-19, lines 30-32, and 1-5. |
| 33 | 10; specification p. 3, lines 15-20. |
| 34 | Specification p. 10, lines 6-10. |
| 35 | Specification pp. 15-16, lines 30, and 1-5. |
| 36 | Specification p. 17, lines 10-13. |
| 37 | Specification p. 18, lines 18-19. |
| 38 | 3 |
| 39 | 11 |

These claims are submitted in order to further elucidate the nature of the invention, and to overcome the prior art of record. Further, Claims 40-53 have been added to further elucidate the Applicant's invention. The Claims 40-53 are based on the claims above. It is believed that no new matter is added by the addition of these new claims.



Section 112 Rejection

Claim 10 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for use of the term "bulky". This term is not used in the new claims, and Claim 10 has been cancelled. Thus, the Applicant requests that this rejection be withdrawn.

Section 102 Rejection

Claims 10-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by US 5,674,795 and also by US 6,239,058, individually. These claims are replaced by new Claims 23-39, and 40-53. It is believed that these new claims overcome the Examiner's rejections, and the Applicant requests that these rejections be withdrawn.

In particular, neither '795 or '058 disclose the use of Applicant's claimed "ionizing activators", nor is the sequence of steps that Applicant claims disclosed. Thus, it is submitted that the new claims are allowable over the art of record.

Section 103 Rejection


Claims 10-14 were rejected under 35 U.S.C. § 103(a) as being obvious in light of EP 578 838. These claims are replaced by new Claims 23-39, and 40-53. It is believed that these new claims overcome the Examiner's rejections, and the Applicant requests that this rejection be withdrawn.

In particular, as the Examiner admits on page 7 of the Action dated August 12, 2002, the claimed "ionizing activators" are not disclosed in EP 578 838. Further, there is no suggestion that such an ionizing activator would be useful. To conclude that such an activator would be useful would constitute impermissible hindsight. Further, the use of such an activator in to make a catalyst composition using the sequence of steps the Applicant claims is not suggested to taught by any single reference or combination of references sighted by the Examiner. It could not have been foreseen from the prior art of record that Applicant's invention would result in, on average, as much as twice the polymerization activity, as shown in the data on page 37 of the specification.

It is submitted that the new Claims 23-53 are in condition for allowance. The applicant invites the Examiner to telephone the undersigned attorney if there are any other issues outstanding which have not been presented to the Examiner's satisfaction.

Respectfully submitted:

September 9, 2002
Date


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